

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

District of Utah



Division

FILED

2024 MAY 28 PM 3:55

CLERK

U.S. DISTRICT COURT

Kalie Jones, Nicholas Hulse, ~~Freyja Hulse, Viktoria~~
~~Peterson, Ruby Peterson, Pearl Jones~~

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

See Attached (1)

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Case: 2:24-cv-00368

Assigned To : Romero, Cecilia M.

Assign. Date : 5/22/2024

Description: Jones et al v. Aver Health et al

Jury Trial: (check one) ☒ Yes ☐ No

RECEIVED CLERK

MAY 22 2024

U.S. DISTRICT COURT

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
 (Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.



Nick Hulse <nickbit081@gmail.com>

(1)

(no subject)

Kalie Jones-Hulse <kaliejoneshulse@gmail.com>
 To: Nick Hulse <nickbit081@gmail.com>

Tue, May 21 at 12:25 PM

Kalie Jones
 4537 Flower Point
 Eagle Mountain, UT 84005
 Kaliejoneshulse@gmail.com
 801-450-0053
 May 22, 2024

PLANTIFF

1) Aver Health
 Mr. Jason Herzong CEO
 Mr. David Flood CFO
 Mr. Jeff Herr CIO
 Ms. Domonique Deleanes COO
 2916 W. Marshall St., Suite A
 Richmond, VA 23220
 8666803106
 INDIVIDUAL & COMPANY

2) AverTest and AverSys
 Viral Mennon
 Tonya Mitchell
 Eugene Swinke
 INDIVIDUAL & COMPANY
LABORATORY
 4709 LaGuardia Drive, STE 100
 St Louis, MO 63134

3) Utah Division of Family and Child Services
 Western Regional Offices
 Casey Christopherson
 John Perkins
 150 E. Center Street, Ste. 5100
 Provo, 84606-3157
 Phone: 801-374-7000
 Director DCFS salt Lake Metro
 Ray Harris
 1385 S State Street
 Salt Lake City, UT 84115
 Phone: 801-488-2620

4) ELIZABETH ALICE
 BUREAU FOR CONFLICT
 PREVENTION AND
 STABILIZATION

1300 PENNSYLVANIA AVE NW
 WASHINGTON DC 20004

5) UTAH DEPT OF HEALTH
 b) UTAH PROCUREMENT &
 POLICY BOARD

7) PPS
 PROFESSIONAL
 PROBATION SERVICES

8) DCFS CASE WORKERS
 LISA HOUCK
 NANCY FOOTE
 STEPHANIE WRIGHT

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Kalie Jones-Hulse and Nicholas Hulse		
Address	4537 Flower Point		
	EAGLE MOUNTAIN	UT	84005
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	UTAH		
Telephone Number	801-450-0053		
E-Mail Address	KALIEJONESHULSE@GMAIL.COM		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	AVERHEALTH , DOMONIQUE DELEGANES COO		
Job or Title (if known)	JASON HERZONG CEO, DAVID FLOOD CFO, JEFF HERR CIO.		
Address	2916 W MARSHALL ST, STE A		
	RICHMOND	VA	23220
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number	866-680-3106		
E-Mail Address (if known)	DDELAGNES@AVERHEALTH.COM		
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	AVERTEST AND AVERSYS		
Job or Title (if known)	LABORATORY MICHELLE GLINN EUGENE SWINKE		
Address	4709 LAGUARDIA DRIVE, STE 100		
	ST LOUIS	MO	63134
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number	866-680-3106		
E-Mail Address (if known)	MGLINN@AVERHEALTH.COM		
<input checked="" type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 3

Name UTAH DIVISION OF CHILD AND FAMILY SERVICES
 Job or Title (if known) WESTERN REGIONAL OFFICES CASEY CHRISTOPHERSON JC
 Address 150 E CENTER STREET, STE 5100
 PROVO UT 84606
 City State Zip Code
 County UTAH
 Telephone Number 801-374-7000
 E-Mail Address (if known) CCHRISTO@UTAH.GOV

☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES
 Job or Title (if known) ELIZA BETH ALPERO
 Address 195 North 1950 West
 SALT LAKE CITY UT 84116
 City State Zip Code
 County SALT LAKE
 Telephone Number 801-538-410
 E-Mail Address (if known) DCF@UTAH.GOV

☒ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☒ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? AVERHEALTH AND AVERTEST AND UTAH DEPARTMENT OF HEALTH AND HUMAN SERVICES AND UTAH DIVISION OF CHILD AND FAMILY SERVICES VIOLATED MY AND MY CHILDRENS 14TH AMENDMENT DUE PROCESS INTERFERENCE WITH PARENT CHILD RELATIONSHIP. AVERHEALTH IN VIOLATION WITH THEIR CONTRACT WITH DCFSCONDUCTED UNAUTHORIZED DRUG TEST USING MOUTH SWAB INSTEAD OF URINE THEREBY INFRINGING UPON MY RIGHTS

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

AND DUE PROCESS OF THE US 14th AMENDMENT
 FEDERAL EMPLOYEES ELIZABETH ALPERO CONFLICT CPS
 ACTED UNDER THE CROWN OF LAW TO COMMIT LIBEL AND
 PERJURATION OF CHARACTER. VIOLATED MY 14th 6th 14th rights

DEFENDANT 5 DEPARTMENT OF HEALTH AND HUMAN SERVICES
195 N 1950 W SALT LAKE CITY, UTAH 84116

DEFENDANT 6 PROCUREMENT AND POLICY BOARD, ~~PURCHASING~~
4315 S 2700 W SALT LAKE CITY UTAH 84116

DEFENDANT 7 PPS PROFESSIONAL PROBATION SERVICES
AVERHEALTH OFFICIAL TESTING COLLECTION SITE
PROVO, UTAH
CLOSED BUSINESS AND WAS MOVED AND LOCKED IMMEDIATELY
FOLLOWING THE EVIDENTIARY HEARING.

DEFENDANT 8 ELIZABETH ALLRED
UTAH CONFLICT CPS
BUREAU FOR CONFLICT
PREVENTION AND STABILIZATION
1300 PENNSYLVANIA AVE NW
WASHINGTON DC 20004

DEFENDANT 9 ~~QUINCY HATCH~~ STEPHANIE WRIGHT
LISA HOUCK
NANCY FOOTE
DCFS CASEWORKERS
150 E. CENTER ST STE 5100
PROVO UT 84060
SWRIGHT@UTAH.GOV

DEFENDANT 10 UTAH COUNTY PUBLIC DEFENDERS

OFFICE MARGARET LINDSAY, ERIK JACOBSEN

180 N UNIVERSITY AVE STE 140

PROVO, UT 84601

DEF 11 UTAH ATTORNEY GENERAL CLEAVE HATCH
CHILD PROTECTION MICHAEL HOWARD

350 W 800 S

ROOSEVELT UT 84006

DEF 12 R. JOHN MOODY JD CWLS, DIANA MARTHA
ATTORNEY GUARDIAN AD LITEM PIERCE

801-429-8501

PROVO UTAH 84060

MRS ALKED COMMITTED CRIMES OF LIBEL AND SLANDER AND
FALSIFIED DOCUMENTS WHILE VIOLATING MY 1ST, 4TH AND
14TH AMMENDMENTS TO COVERUP THE REPORTS OF ABUSE AND
TO AID THE FOSTER CAREGIVERS IN KIDNAPPING MY CHILDREN

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

AVERHEALTH AND AVERTEST ACTED UNDER THE COLOR OF TH LAW BY BEING THE
CONTRACTED TESTING PROVIDOR FOR FAMILY DEPENDANCY CASES. IT WAS REVEALED
THAT IN THE 6 MILLION DOLLAR CONTRACT BETWEEN DCFS AND AVERHEALTH MOUTH
SWAB DRUG TESTS WERE NOT ALLOWED EVEN IN THE EVENT OF NO SAME SEX
COLLECTOR. IT WAS A VIOLATION OF MY RIGHTS FOR THEM TO PERFORM MOUTH SWABS.

III. Statement of Claim

I SHOULD NOT HAVE BEEN OFFERED OR FORCED TO
SUBMIT TO THE SWAB, IT VIOLATED THE
CONTRACT BETWEEN DCFS AVERHEALTH AND ME.

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
PROFESSIONAL PROBATION SERVICES AVERHEALTH COLLECTION SITE PROVO UTAH
CASE WORKER LISA HOUK CHANGING TESTING TO SWABS
WITHOUT A COURT ORDER AND HOLDING MY KIDS AND VISITS
OVER OUR HEADS IF WE GOT A DIRTY - COMMITTING LIBEL
AND SLANDER AND INTENTIONALLY DEPRIVING ME OF MY
RIGHTS AS A PARENT
- B. What date and approximate time did the events giving rise to your claim(s) occur?
6/7/2022 ORAL FLUID POSITIVE METH 6/30/2022 ORAL FLUID POS METH AND ETHANOL
7/27/2022 POSITIVE ORAL FLUID METH
SEE EXHIBIT 2
MULTIPLE COURT HEARINGS AND CIVIL RIGHTS

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)
PLEASE SEE ATTACHED EVIDENTIARY HEARINMG ORDERS BUT I WAS FORCED TO SUBMIT
TO ORAL FLUID DUE TO STAFF SHORTAGES AND NO SAME SEX COLLECTOR. I WAS
UNCOMFORTABLE DOING THE TESTS. PLEASE SEE EXHIBIT 1
BREECH OF CONTRACT BETWEEN AVERHEALTH AND DCFS STATED THAT ORAL SWABS
WERE NOT TO BE USED IN THE EVENT OF NO SAME SEX COLLECTOR. NEGLIGENCE TO
ADHERE TO THE URINE TEST PROTOCOL RESULTED IN UNAUTHORIZED AND UNRELIABLE
DRUG TESTING WHICH COST ME OVER 9 MONTHS OF ONLY SEEING MY CHILDREN 1 HOUR
WEEK SUPERVISED AT DCFS OFFICE. JUDGE NELSON STATED THE TESTS
WERE UNRELIABLE AND REMOVED FROM CASE WHILE
COMMITTING LIBEL AND 14TH AMMENDMENT VIOLATIONS
ATTEMPTING TO DISCREDIT MY BY NAMING
ERRONEOUS CHARGES FLIED AMANST ME IN A
DIFFERENT COURT. HE SHOULD HAVE REUSED
HIMSELF FROM CASE

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

AS A RESULT OF THIS 14TH AMMENDMENT VIOLATION AND UNFIT DUE PROCESS WE HAVE SUFFERED SIGNIFICANT EMOTIONAL DISTRESS AND PTSD. MY CHILDREN ENDURED BEING MENTALLY AND PHISICALLY AND SEXUALLY ABUSED WHILE IN FOSTERCARE. WE SUFFERED UNNECCARY EMOTIONAL DURESS AS THEY SAID KIDS WERE COMING HOME AND DUE TO THE FALSE POSITIVE ON JULY 27TH THE CHILDREN WERE TOLD THAT THEIR MOTHER COULDNT STAY CLEAN AND SOBER FOR THEM. ALL LIES ALL POSITIVE TESTS THROWN OUT IN COURT. TO DISCREDIT ME ERRONOUS AND MALICIOUS CHARGES WERE FILED AGAINST ME CITING 3 FALSE REPORTS TO A GOVERNMENT OFFICIAL OR POLICE OFFICER FOR REPORTING THE BRUISES, WEIGHTLOSS AND SEVERE TRAUMA MY CHILDREN WERE ENDURING IN FOSTER CARE WHILE WE FOUGHT THESE FALSE POSITIVE DRUG TEST RESULTS. WE REPORTED THIS FAULTY DRUG TESTING TO THE KSL INVESTGATORS AND BEING FEATURED MULTIPLE SEGMENTS ON THE CHANNEL 5 NEWS. WE WERE MALICIOUSLY PROSECUTED FOR TELLING THE TRUTH ON MEDIA AND FINALLY AFTER 2 YEARS THE FAKE CHARGES HAV ALL BEEN DISMISSED AGAINST ME. I NOW HAVE A COMPLETE DISTRUST FOR THE ENTIRE JUVENILE COURT SYSTEM, DCFS, GUARDIAN AD LITEMS OFFICE AND SUFFER SEVERE DEPRESSION AND ANXIETY.

I ATTEND COUNSELING AND ANXIETY MANAGEMENT.
I WAS UNABLE TO MAINTAIN OR FIND EMPLOYMENT AND MY HUSBAND LOST 3 GREAT JOBS

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. WE ARE SEEKING ACKNOWLEDGEMENT OF BREACH OF CONTRACT BY DCFS AND AVERHEALTH BY OFFERING ORAL TESTS TO ME AT ANY TIME FOR ANY REASON IT WAS FORBIDDEN IN THE CONTRACT. .

2 WE WANT A CORRECTION OF THE RECORDS AND EVERY FALSE RECORD OR REPORT AND THE ENTIRE RECORD EXAMINED AND OUR NAMES CLEARED OF ANY WRONG DOING.

3. MONETARY COMPENSATION IN TOTAL OF ~~SEVEN~~ MILLION DOLLARS. 6 MILLION DOLLARS IS THE AMOUNT THE STATE OF UTAH PAID AVERHEALTH FROM 2022-2023 FOR ITS DRUG TESTING CONTRACT AND 1 MILLION FOR DCFS KNOWING AND ALLOWING THIS VIOLATION OF MY 14TH AMMENDMENT RIGHTS TO CONTINUE AND NOT HONORING THEIR CONTRACT WITH AVERHEALTH TO ENSURE THE ACCURACY AND QUALITY OF THE DRUG TESTS. THE TOTAL DISREGARD FOR THE TESTING CONTRACT AND POTENTIAL EFFECTS OF UNRELIABLE DRUG TESTING WERE DEVASTATING AND PROVIDED MORE MALICIOUS PROSECUTION AND COMPLETE DEFIMATIN OF MY CHARACTER AND RECOVERY.

4. FORMAL APOLOGY FROM ALL PARTIES FOR THE DEPRIVATION OF MY RIGHTS AND LIBERTIES AND

* 11 MILLION DOLLARS

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

MAY 23 2024

Signature of Plaintiff

Printed Name of Plaintiff

KALIE JONES

NICK HULSE

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address